

# **EXHIBIT 5**

## 8005 Navajo Street, Philadelphia, PA 19118

September 23, 2019

Brian Shaffer, Esq.  
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Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

**Re: Oluwafemi Charles Igberase a/k/a “Charles John Nosa Akoda” / ECFMG**

Dear Counsel,

I have completed my initial review of the above case, including the following records:

- Records produced by Howard University Hospital
- Guilty Plea
- Records produced by the American Board of Obstetricians and Gynecologists (“ABOG”)
- Records of Desire Evans
  - Plaintiffs0000000001 – Plaintiffs00000000571
  - Plaintiffs00000005735 – Plaintiffs00000006016
  - Complaint and Notice of Removal to EDPA
  - Desire Evans’s Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Desire Evans’s Supplemental Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Deposition of Desire Evans
  - Documents Related to Maryland Litigation
  - Class Action Complaint in CAL 17-34091
  - Desire Evans’s Answers to Interrogatories of Defendant Dimensions Healthcare Corporation D/B/A Prince George’s Hospital Center
- Records of Elsa Powell
  - Plaintiffs00000000572 – Plaintiffs00000000929
  - Plaintiffs00000006174 – Plaintiffs00000006363
  - Plaintiffs0000118377 – Plaintiffs0000118653
  - Complaint and Notice of Removal to EDPA
  - Elsa Powell’s Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents

- Elsa Powell's Supplemental Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Deposition of Elsa Powell
  - Documents Related to Maryland Litigation
  - Class Action Complaint in CAL 17-37091
  - Elsa Powell's Answers to Interrogatories of Defendant Dimensions Healthcare Corporation D/B/A Prince George's Hospital Center
- Records of Jasmine Riggins
  - Plaintiffs0000001134 – Plaintiffs0000001242
  - Plaintiffs0000001995 – Plaintiffs0000002026
  - Plaintiffs0000006394 – Plaintiffs0000006512
  - Plaintiffs0000007418 – Plaintiffs0000007425
  - Plaintiffs0000007426 – Plaintiffs0000007652
  - Complaint and Notice of Removal to EDPA
  - Jasmine Riggins's Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Jasmine Riggins's Supplemental Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Deposition of Jasmine Riggins
  - Documents Related to Maryland Litigation
  - Amended Class Action Complaint in CAL 18-07863
  - Jasmine Riggins's Responses to Requests for Admission in CAL 18-07863
  - Jasmine Riggins's Answers to Interrogatories in CAL 18-07863
  - Deposition of Jasmine Riggins in CAL 17-22761, CAL 17-37091, and CAL 18-07863
- Records of Monique Russell
  - Plaintiffs0000000932 – Plaintiffs0000001133
  - Plaintiffs0000001243 – Plaintiffs0000001685
  - Plaintiffs0000001686 – Plaintiffs0000001839
  - Plaintiffs0000001840 – Plaintiffs0000001845
  - Plaintiffs0000001846 – Plaintiffs0000001994
  - Plaintiffs0000005338 – Plaintiffs0000005429
  - Plaintiffs0000067757 – Plaintiffs0000067847
  - Plaintiffs0000118654 – Plaintiffs0000118679
  - Complaint and Notice of Removal to EDPA
  - Monique Russell's Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Monique Russell's Supplemental Answers to First Set of Interrogatories and Responses to First Set of Requests for Production of Documents
  - Deposition of Monique Russell
  - Documents Related to Maryland Litigation
  - Amended Class Action Complaint in CAL 18-07863

- Monique Russell's Responses to Defendants' Requests for Admissions in CAL 18-07863

I have been requested to review materials provided by counsel for the Educational Commission for Foreign Medical Graduates ("ECFMG") regarding four patients who were treated by Oluwafemi Charles Igberase a/k/a "Charles John Nosa Akoda" ("Dr. Akoda").

For time spent on this matter, I will be compensated \$400 per hour for reviewing materials and writing a report; \$2,000 for deposition testimony; and \$4,000 for trial testimony.

I have attached a copy of my CV. I have also attached a list of trial and deposition testimony within the past four years.

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**Desire Evans**

**Summary**

At the time of her 3/17/16 delivery, Ms. Evans was a 36-year-old gravida 3 para 0-0-2-0 at 41 weeks. She had a past history of depression and anxiety, [REDACTED], and used marijuana daily.

On 3/16/16, Dr. Akoda was the assigned OB/GYN when Ms. Evans's labor was induced at Prince George's Hospital. Dr. Akoda was the only OB/GYN who treated her during her labor and delivery. (Evans Dep. 83-86.) Her prenatal care was not provided by Dr. Akoda, but rather by Dr. Javaka Moore. (Evans Dep. 97.)

Ms. Evans's labor was induced / augmented with Cytotec and Pitocin.

She received an epidural.

She progressed to completely dilated. Extensive caput was noted.

Dr. Akoda recommended cesarean delivery due to a non-reassuring FHT and arrest of descent.

On 3/17/16, Dr. Akoda performed a cesarean section. Delivery resulted in a healthy 6 pound 14 ounce baby boy (Peyton) with Apgar scores of 8 and 9 at 1 and 5 minutes, respectively. EBL was 400 ml. There were no intra-operative complications.

Ms. Evans has no complaints about her incision. (Evans Dep. 95-96.)

Her post-operative course was uneventful.

On 3/20/16, POD#3, she was discharged.

She was later diagnosed with depression and anxiety. (Evans Dep. 102.)

On 1/17/18, she had an appointment with Shanda Smith, MD, at Kaiser Permanente Largo Medical Center for a psychiatric evaluation. *"I just told her that I felt uncomfortable and that I was touched in a way (by Dr. Akoda) that I felt was inappropriate and I didn't know how to deal with it."* (Evans Dep. 128.) She stated, *"he was, like, fondling my clitoris, saying that he needed to do that in order to stimulate me to push the baby."* She stated that Dr. Akoda did this several times. (Evans Dep. 132-34.) Her husband and mother were present.

At age three, Peyton was a healthy child. (Evans Dep. 26.)

Ms. Evans did not file a medical malpractice lawsuit against Dr. Akoda. She learned about litigation against Dr. Akoda from a radio ad.

### **Opinions**

The clinical care reflected by the reviewed medical records is consistent with a physician who has received medical training. The procedures that he performed are unique to the medical profession and cannot be skillfully performed by a layperson. A cesarean section with no complications resulted in delivery of a healthy baby. Ms. Evans had no post-operative complications.

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**Elsa Powell**

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**Summary**

In 2014, Ms. Powell was treated by Dr. Akoda during prenatal visits and her labor and delivery. She was a 30-year-old gravida 4 para 3-0-0-3.

When she arrived at a scheduled prenatal appointment with Dr. Abdul Chaudry, “*they said that Dr. Chaudry had to step out, but Dr. Akoda was there.*” She then saw Dr. Akoda every couple of weeks and then weekly for her remaining prenatal visits. (Powell Dep. 40.)

She stated that Dr. Akoda was flirtatious with her at her prenatal visits. He examined her breasts and made “*comments about I have nice breasts and stuff like that. So then I felt uncomfortable. ... I was eight months pregnant at that time.*” She then asked for a nurse to be present for her next exam. She states that this occurred “*a few times.*” She did not request to be seen by a different doctor. (Powell Dep. 51-53.)

On 9/17/14, at 39+ weeks, Dr. Akoda induced Ms. Powell’s labor at Prince George’s Hospital. She had no support people with her.

She had a vaginal delivery of a healthy baby boy (Jaiden).

She reported having vaginal bleeding and passing blood clots several hours after her delivery. After she informed a nurse, Dr. Akoda came to evaluate her and diagnosed her with a postpartum hemorrhage.

On 9/18/14, Dr. Akoda performed a suction dilation and curettage (“D&C”) under general anesthesia. EBL was 250 ml. Findings were “*Extensive amounts of cauliflower-like lesions in the vagina. ... The lower uterine segments were not contracted. Bleeding from the upper part of the cervix and significant oozing from the cauliflower-like lesions from the vagina.*” The vagina was packed with gauze at the end of the surgery. (Powell Dep. 46).

Ms. Powell stated that she was anemic and uncertain if she received a blood transfusion. She stated that she asked but did not receive an answer from Dr. Akoda. (Powell Dep. 49.)

On 9/19/14, postpartum day #2, Ms. Powell was doing well. She had minimal bleeding. Her vital signs were stable. Her hemoglobin was 9.3. She was discharged. She was to follow up in six weeks.

Ms. Powell stated that at her postpartum visit, Dr. Akoda treated an ovarian cyst in the office. She was then in pain for three or four days.

Jaiden is a healthy boy.

Ms. Powell did not file a medical malpractice lawsuit against Dr. Akoda. She learned about litigation against Dr. Akoda from a friend who saw a TV ad.

### **Opinions**

The clinical care reflected by the reviewed medical records is consistent with a physician who has received medical training. The procedures that he performed are unique to the medical profession and cannot be skillfully performed by a layperson. A vaginal delivery resulted in delivery of a healthy baby. Ms. Powell had a postpartum hemorrhage that was due to uterine atony and extensive genital vaginal warts. Dr. Akoda appropriately performed a D&C and packed the vagina with gauze. Vaginal warts result from a sexually transmitted infection with HPV. Such vaginal warts commonly bleed after delivery.

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**Jasmine Riggins**

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**Summary**

Between August 2012 and March 2013, Ms. Riggins was a patient of Dr. Akoda at Dimensions Healthcare.

On 3/18/13, she presented for a scheduled repeat elective cesarean section to Dimensions Healthcare. She was a 20-year-old gravida 4 para 1-0-2-1 at 40+ weeks. Her pregnancy was complicated by gonorrhea x 2 and late presentation for prenatal care. She had one prior cesarean section and [REDACTED].

Dr. Akoda performed a repeat elective cesarean section. Delivery occurred of an 8+ pound male with Apgar scores of 9 and 9 at 1 and 5 minutes, respectively. Extensive adhesions were noted. EBL was 1,300 ml. No intra-operative complications were noted.

She had no post-operative complications.

On 3/21/13, POD #3, she was discharged.

Ms. Riggins did not file a medical malpractice lawsuit against Dr. Akoda. She learned about litigation against Dr. Akoda from a Facebook post by Monique Russell in 2017.

**Opinions**

The clinical care reflected by the reviewed medical records is consistent with a physician who has received medical training. The procedures that he performed are unique to the medical profession and cannot be skillfully performed by a layperson. An elective repeat cesarean section with no complications resulted in delivery of a healthy baby. She had no post-operative complications.

## **Monique Russell**

### **Summary**

At the time of her 5/25/16 delivery, she was a 38-year-old gravida 4 para 0-0-3-0 at 37+ weeks. [REDACTED], depression, and stress-related back pain. (Russell Dep. 63-64, 79.)

At 37+ weeks, she presented to Prince George's Hospital with ruptured membranes.

Due to a non-reassuring FHT remote from delivery (2 cm), Dr. Akoda recommended a cesarean section. Ms. Russell's husband did not agree with the need for a cesarean section, but Ms. Russell listened to Dr. Akoda. (Russell Dep. 26, 37.)

On 5/25/16, Dr. Akoda performed a cesarean section at Prince George's Hospital. Delivery occurred of a 7+ pound male (Luka) with Apgar scores of 9 and 9 at 1 and 5 minutes, respectively. EBL was 400 ml. No intra-operative complications were noted.

Ms. Russell had no post-operative complications.

On 5/28/16, POD #3, she was discharged.

Luka is a healthy child.

Ms. Russell did not file a medical malpractice lawsuit against Dr. Akoda. Soon after the delivery she discovered an online press release from the Department of Justice about Dr. Akoda.

### **Opinions**

The clinical care reflected by the reviewed medical records is consistent with a physician who has received medical training. The procedures that he performed are unique to the medical profession and cannot be skillfully performed by a layperson. A cesarean section with no complications appropriately performed due to non-reassuring FHT remote from delivery resulted in a healthy baby. Ms. Russell had no post-operative complications.

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## Conclusions

The clinical care reflected by the reviewed medical records is consistent with a physician who has received medical training. The procedures that he performed are unique to the medical profession and cannot be skillfully performed by a layperson. All four of the women's deliveries resulted in healthy babies and good outcomes. The only complication, a postpartum hemorrhage due primarily to bleeding from extensive vaginal warts, was not caused by Dr. Akoda and was appropriately treated by Dr. Akoda.

Review of the records reveals that Dr. Akoda successfully completed an OB/GYN residency training program at Howard University Hospital. Dr. Akoda met requirements, including written and oral examinations, to become board certified by the American Board of Obstetrics and Gynecology ("ABOG"). He also successfully completed requirements for ABOG's board recertification via the Maintenance of Certification ("MOC") program through 2015.

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All opinions stated are with a reasonable degree of medical certainty.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized capital 'J' followed by a horizontal line.

Jay Goldberg, MD, MSCP  
Professor of OB/GYN